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No. 31]

NEW DELHI, SATURDAY, OCTOBER 4, 1986/ASVINA 12, 1908

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as
a separate compilation

भाग II—खण्ड 3—उप-खण्ड (III)

PART II—Section 3—Sub-section (III)

(सब राज्य क्षेत्र प्रशासनों को छोड़कर) केन्द्रीय अधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than Administrations of Union
Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 20 अगस्त, 1986

आ. प्र. 194—बॉक प्रतिनिधित्व अधिनियम, 1951 की धारा
106 के अनुसरण में निर्वाचन आयोग एतद्वारा 1985 की निर्वाचन प्रणाली
सं. 3 में दिया गया पटना उच्च न्यायालय की तारीख 16 जून, 1986
का आदेश प्रकाशित करता है।

[स. 82/बिहार (3/85)/86]

एस० डी० प्रसाद, अवर सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 20th August, 1986

O.N. 194.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Order dated the 16th June, 1986 of the High Court of Judicature at Patna in Election Petition No. 3 of 1985.

[No. 82/BR(3/85)/86]

S. D. PERSHAD, Under Secy.

ELECTION PETITION NO. 3 OF 1985

Sri Ram Awadhesh Singh—Petitioner

Vs.

Sri Tapeswar Singh & Others—Respondents

ORDER

PRESENT

THE HON'BLE MR. JUSTICE RAMNANDAN PRASAD
Ramnandan Prasad, J. Sri Ram Awadhesh Singh, who lost

the election to the Lok Sabha from 19 Bikramganj Parliamentary Constituency held in December, 1984, has filed the present election petition for a declaration that the election of respondent No. 1 Sri Tapeswar Singh was void, because of the various corrupt practices committed by him in the election. He has made a further prayer to declare him (election petitioner) as duly elected. Nineteen persons besides the respondent No. 1 have been arrayed as respondents, as they had also contested the election. Respondent No. 1 filed a written statement in which he stated, inter alia, that the election petition was fit to be dismissed under section 86(1) of the Representation of People Act (hereinafter referred to as "the Act") as Sri Ramjee Mishra, against whom there is an allegation of corrupt practice in the election petition read with Schedule-1, was not joined as respondent even though he was declared as a duly nominated candidate for the election. Subsequently, respondent No. 1 filed a petition (which is at flag 40) with a prayer to decide this question as a preliminary issue and dismiss the election petition summarily under section 86(1) of the Act.

2. The election petitioner has filed a reply to the aforesaid petition of respondent No. 1, on 20-2-1986. In this petition the election petitioner has expressed his inability to affirm or deny as to whether the said Ramjee Mishra was a duly nominated candidate for the election in question. In the alternative, it was also, contended that there is no allegation of corrupt practice against Ramjee Mishra in the whole of the election petition and a mere mentioning of his name in Schedule-1 will not constitute corrupt practice within the meaning of section 123(2) read with section 83 of the Act. A request was also made in the petition to decide this Question along with other issues at the time of final hearing.

3. After hearing the parties, this Court decided to hear and dispose of the preliminary question raised in the petition at flag '40' as a preliminary issue, since it involved the

question of maintainability of the election petition which went to the root of the matter, and if the plea of respondent No. 1 prevails, the election petition itself will be liable for summary dismissal under section 86(1) of the Act and in that view of the matter it would be unnecessary to consider the other issues involved in the case. The view finds support from the following observation of the Supreme Court in the case of Mohan Singh Vs. Bhanwarlal and Others (A.I.R. 1964 S.C. 1366):

“Whether for alleged non-compliance with the requirements of S. 82 of the Act, the petition by Bhanwarlal was not maintainable must first be determined, for if the petition did not comply with the mandatory provisions of the statute, irrespective of whether a corrupt practice was committed by Mohan Singh the petition must stand dismissed without further investigation.”

4. It is the undisputed position that Sri Ramjee Mishra has not been made a respondent in the present election petition and, so, the following two points arise for decision at this stage :—

- (1) Whether any allegation of corrupt practice within the meaning of section 123 of the Act has been alleged in the election petition by the election petitioner?
- (2) Whether Sri Ramjee Mishra was a candidate to the election within the meaning of section 82 read with section 79 of the Act?

5. In paragraph No. 14 of the election petition it has been stated by the election petitioner that several booths were captured on the date of the poll by respondent No. 1 himself and by persons hired by him and in this way the Harijans and weaker sections of the voters including the supporters of the election petitioner were scared away by them. It has further been stated that the ballot papers were stamped in favour of respondent No. 1 and inserted in the ballot boxes by the men of respondent No. 1. It has also been stated in sub-paragraph No. (i) of paragraph No. 14 that the names of the voters scared away and the number of the booths as also the persons, who prevented them, are given in Schedule 1 to the election petition. It is true that the name of Sri Ramjee Mishra is not mentioned in paragraph No. 14, but it is clearly mentioned in Column No. 3 of Schedule-1 at page 54 that Sri Ramjee Mishra was one of those persons who had prevented the voters and committed the corrupt practice of undue influence in respect of booth Nos. 25 and 26 of 225 Karkat Assembly segment. In Schedule-2, the election petitioner has given the list of booths captured by respondent No. 1 or his hired men or supporters with the consent of respondent No. 1 and at page No. 65 booth Nos. 25 and 26 aforesaid are mentioned at serial Nos. 50 and 51 respectively.

6. Thus, it is apparent that the election petitioner has clearly averred that Booth Nos. 25 and 26 of 225 Karkat Assembly Segment were captured by respondent No. 1 or his hired men or supporters with his consent and thus a large number of voters at these booths, besides others were scared away by them. Then, it is further clear from Schedule-1 that one of the persons, who had prevented the voters and had committed the said corrupt practice of undue influence with the consent of respondent No. 1 was Sri Ramjee Mishra. Particulars of this Ramjee Mishra are not given in Schedule-1 and, therefore, respondent No. 1 through a petition sought clarification regarding parentage and address etc. of the persons named in column No. 3 of Schedule-1, who are said to have committed the said corrupt practice. The election petitioner gave the required clarification in Annexure-1 attached to the petition filed by him on 27-1-1986 which is at flag ‘38’. At page 9 of this Annexure-1 the election petitioner has clarified that Sri Ramjee Mishra, who has been named in column No. 3 of Schedule-1 of the election petition in respect of booth Nos. 25 and 26 of Karkat Assembly constituency is the son of Sheoji Mishra of village Itariha, P. S. Karkat. These are also the particulars of Ramjee Mishra as given in paragraph No. 3 of the petition of respondent No. 1 at flag ‘40’.

7. Thus, it is manifest from paragraph No. 14 and Schedule 1 of the election petition read with Annexure-1 of the clarification petition (Flag 38) that Ramjee Mishra, son of Sheoji Mishra, of village Itariha, P. S. Karkat, was one of those persons, who had committed corrupt practice of undue influence by preventing the Voters from exercising their franchise at booth Nos. 25 and 26 of Karkat Assembly Segment at the parliamentary election of 1984. It has not been disputed that the act alleged against Ramjee Mishra in Schedule-1 read with paragraph No. 14 of the election petition would amount to corrupt practice within the meaning of section 123 of the Act. The case of the election petitioner, however, is that no allegation of corrupt practice has been made against the said Ramjee Mishra in the election petition proper and a mere mention of his name in Schedule-1 will not constitute corrupt practice within the meaning of section 123 of the Act. In order to buttress this stand an attempt has been made on behalf of the election petitioner to show that the Schedule is not an integral part of the election petitions and unless the allegation of any corrupt practice is made out in the election petition proper, it would not be sufficient to constitute corrupt practice at all, even though such an allegation has been made in the Schedule to the election petition. So, that the learned counsel of the election petitioner meant to say was that the election petition proper is quite distinct from the Schedule and if allegation of corrupt practice is not made against anyone in the election petition proper, the election petition cannot be dismissed under section 86(1) of the Act, even, if, the person against whom the allegation of corrupt practice has been made in the Schedule be a candidate to the election within the meaning of section 79 of the Act.

8. It is, however, difficult to accept the aforesaid proposition of law propounded on behalf of the election petitioner. If this view is accepted it would lead to the inevitable conclusion that Schedule is extraneous to the election petition and is not a part thereof.

9. In the present case it appears that the material fact of booth capturing has been stated in paragraph No. 14 of the election petition and the particulars as to who did it and when and where are material particulars, which have been given in Schedule-1. Schedule-1 is very clear in itself and is supported by Schedule-2, which gives an account of the booths captured by and on behalf of respondent No. 1 and the resultant votes secured by respondent No. 1 as a result of booth capturing. It may be significant to point out here that the election petitioner has verified and appended separate affidavits to the two Schedules besides the election petition proper. From these verification and affidavits it is clear that the contents of these Schedules are true to the knowledge of the election petitioner. Regarding paragraph No. 14 of the election petition if appears from his affidavit appended thereto that the contents thereof are true to his information.

10. As to what are “material facts” and what are “material particulars” have been explained by the Supreme Court in the case of Udhav Singh Vs. Madhav Rao Scindia (A.I.R. 1976 S.C. 744) in the following words :

“.....In short, all those facts which are essential to clothe the petitioner with a complete cause of action, are “material facts” which must be pleaded, and failure to plead even a single material fact amounts to disobedience of the mandate of Sec. 83(1)(a)”.

“.....“Particulars”, on the other hand, are “the details of the case set up by the party” “Material particulars” within the contemplation of clause (b) of Section 83(1) would therefore mean all the details which are necessary to amplify, refine and embellish the material facts already pleaded in the petition in compliance with the requirements of Clause (a). ‘Particulars’ serve the purpose of finishing touches to the basic contours of a picture already drawn, to make it full, more detailed and more informative.”

11. The highest court has made it clear in the case of M. Kamalam Vs. Dr. V. A. Sved Mohammed (A.I.R. 1978 S.C. 840) that an election petition for the purpose of sub-

section (3) of section 81 is confined not only to election petition proper but also includes a schedule or annexure contemplated in sub-section (2) of section 83 and a supporting affidavit referred to in the proviso to section 83(1). It has been firmly stated that the election petition is in truth and reality one document consisting of two parts, one being the election petition proper and the other being the affidavit referred to in the proviso to Section 83(1).

12. If one examines the instant election petition proper and the two Schedules thereof, he will have no hesitation in holding that the two Schedules-1 & 2 are integral part of the election petition proper. In paragraph no. 14 of the main petition the election petitioner has stated about the factum of booth capturing, which is a material fact and the details thereof as to who did that act of booth capturing at which booths are mentioned in Schedule-1 and the result of such acts done by those persons are mentioned in Schedule-2. So, both Schedule-1 & 2 are complementary of the main election petition and are integral part thereof, as the election petition would be incomplete without these Schedules. It has been clearly mentioned in paragraph no. 14(i) of the election petition that the names of the voters scared away from the booths and the persons who prevented them are given in schedule-1 of the election petition. Similarly, it has been mentioned in paragraph no. 14(ii) that the full particulars of the fashion in which the booths were captured are given in Schedule-2 of the election petition. So, the facts mentioned in Schedule-1 and 2 are not evidences, but are integral part of the allegation of corrupt practice made in the election petition and are meant to supplement the allegation of corrupt practice made in the election petition itself. The election petition proper would obviously remain incomplete without these two Schedules. As observed by the Supreme Court in the case of Udhav Singh (supra) material particulars which are generally given in the Schedules would mean all the details which are necessary to amplify, refine and embellish the material facts already pleaded in the election petition, and this particulars serve the purpose of finishing touches to the basic contours of a picture already drawn to make it full, more detailed and more informative. Indeed, as held by the Supreme Court in the case of M. Kamalam (supra), the election petition for the purpose of sub-section (3) of section 81 is confined not only to the election petition proper but also includes schedules and annexures contemplated in sub-section (2) of section 83. The election petition is, in truth and reality, one document consisting of two parts—one being the election petition proper and other the schedules, Annexures and Affidavits, which are given to amplify the material facts pleaded in the petition. Of course, such Schedules and Annexures which comprise only evidences in support of the material facts and particulars cannot be treated as integral part of the election petition. But, in the present case facts stated in the Schedules 1 and 2 cannot be treated as evidences in support of the material facts and particulars, rather they provide the material particulars themselves and are in reality supplement to the election petition proper for giving complete picture of the allegations made therein. That being the position, Schedules 1 & 2 must be treated as an integral part of the election petition and, if any allegation of corrupt practice is made against anyone even in these Schedules in respect of a material fact stated in the election petition itself, it must be held that the allegation of corrupt practice has been made against that person in the election petition itself and the election petitioner cannot wriggle out simply by saying that the said person has not been named in the election petition proper.

13. Now it has to be seen whether Ramjee Mishra, son of Sheoji Mishra, of village Itaribia against whom allegation of corrupt practice has been made in Schedule-1 of the election petition was a candidate to the said election. The term 'candidate' has been defined in section 79(b) of the Act and according to it, "candidate" means a person, who has been or claims to have been duly nominated as a candidate at any election. So, according to this section a candidate would be a person who has simply been nominated as a candidate at any election and it is not necessary that

he should have contested the election. Even if the candidate has withdrawn from the election after publication of the list of the validly nominated candidates prepared under Rule 8 of the Conduct of Election Rules, 1961 (hereinafter referred to as 'the Rules'), he shall be deemed to be a candidate within the meaning of Section 79(b) of the Act. According to Rule 8 the list of valid candidates is prepared in Form IV. The fact that a particular candidate has withdrawn from contest after publication of the list prescribed under Rule 8 shall not take him out from the category of a 'candidate' within the meaning of section 79(b) of the Act. This position has been reiterated by the highest court of the land in a number of decisions. In the case of Mohan Singh (supra) a Five Judges Bench of the Supreme Court has observed as follows:—

"Himmat Singh had filed his nomination paper, and on that account by virtue of the definition of S. 79 he was a candidate for the purposes of Parts VI, VII and VIII, and did not cease to be a candidate merely because he withdrew his candidature. If therefore the petition contained any imputation of corrupt practice made against Himmat Singh, it could not be regarded as properly constituted unless he was impleaded as a respondent, for, by the definition of "candidate" in S. 79(b), the expression "any other candidate" in S. 82(b) must include a candidate who had withdrawn his candidature."

14. In the case of Mohan Raj Vs. Surendra Kumar Taparia and others (AIR 1969 S.C. 677) an argument was advanced on behalf of the election petitioner that the definition of the term 'candidate' as given in section 79(b) of the Act should not be read in section 82(b) which should be limited to the contesting candidates. It was also submitted that when sections 100 and 123 speak of a candidate, they refer to a candidate whose candidature subsists at the time of election, that is to say after the time for withdrawal passes away. The Hon'ble the Chief Justice repelled this argument in the following words:—

"The argument cannot be entertained. These questions have already been considered by this Court on more than one occasion. They were first considered in K. Kamraj Nadar V. Kunju Thevar, 1959 SCR 583—AIR 1958 SC 687 but that ruling may not strictly be appropriate since it was based on Section 55A(2) which is now repealed. However, other cases (Amin Lal Vs. Munna Mal, 1965-1 SCR 393—(AIR 1967 SC 836) consider this point. It is there laid down that a candidate who is duly nominated continues to be a candidate for purpose of Section 82(b) in spite of withdrawal. This really decides the question which has been mooted before us. A very detailed examination of the same question is to be found in Chaturbhuj v. Election Tribunal, Kanpur, 1958-15 ELR 301 at p. 308—(AIR 1958 All 809 at p. 812). In that case our brother Bhargava (N. L. Chaturvedi J. concurring) has examined in the Allahabad High Court these provisions from every angle which are presented to us and has adequately answered all the arguments."

15. The same view has been reiterated in the case of Kashinath Vs. Smt. Kudsia Begam and others (AIR 1971 S.C. 372) in which it has been specifically stated that a candidate, who has withdrawn has also to be joined as respondent, if there is an allegation of corrupt practice against him. In view of the long series of decisions of the highest court of the land on this question, it would be unnecessary to refer to other authorities on this point. It is now well established principle of law that if a candidate who has withdrawn from contest after announcement of the list of the validly nominated candidates under rule 8 and published in Form IV, he continues to be a candidate and the election petitioner is bound to join him as a respondent in his election petition, in view of the mandate of Section 82(b) of the Act, if an allegation of corrupt practice has been made against that candidate as the expression "any other candidate" in section 82(b) includes a candidate, who has withdrawn from contest. The decisions of the Supreme

Court, referred to above, are authoritative pronouncements on this point.

16. Now, it has to be seen whether Ramjee Mishra aforesaid was one of the validly nominated candidate for the said election. Exhibits A to A/c are the four nomination papers filed by Ramjee Mishra, S/o Shroji Mishra of village Itahia P.S. Karakat, in the district of Rohtas. These nomination papers are in Form 2A as required by rule 4. There is an endorsement by the returning officer on the back of all these four nomination papers which show that they were accepted as valid on scrutiny by the Returning Officer Ext. B is the notice of nomination under section 37 of the Act which is in Form 3-A as required by rule 7. This has been published under the authority of the Returning Officer of the said parliamentary constituency. Ext. C is the list of validly nominated candidates, as required by section 36(8) of the Act and has been prepared in Form IV as prescribed by Rule 8.

17. It would be apparent from the order sheet dated 15-2-1986 that with the consent of the parties these documents were marked as exhibits in the case on behalf of respondent no. 1. On the same day i.e. on 15-2-1986, after sometime of the passing of the said order, a petition at flag 42 was filed on behalf of the election petitioner in which it was stated that the junior counsel appearing on behalf of the petitioner, namely, Sri K. K. Mandal, had inadvertently and without any instruction of the election petitioner, given consent to the suggestion of learned counsel for respondent no. 1 that these documents be marked as Exhibits and as such a prayer was made to recall the said order passed on 15-2-1986 for marking these documents as exhibits with the consent of the election petitioner. A copy of the petition was, however, not delivered to the learned counsel for respondent no. 1 for some days. In my opinion, this petition of the election petitioner does not merit any consideration since the junior counsel did not require any specific instruction from the election petitioner before giving consent to the marking of the said documents, which were produced from the custody of the Returning Officer and are apparently official papers. Every counsel has the implied authority to give such consent and he does not require any specific instruction from his client for doing so. The plea that the learned counsel had given the consent inadvertently is simply erroneous as a counsel is expected to give his consent after applying his mind to that matter, and in fact the consent was given after some arguments. At any rate, no such statement has been made by the learned counsel Sri Mandal himself. In the absence of any statement by him, the election petitioner was not competent to state like that. In such circumstances, the petition of the election petitioner at flag 42 has to simply rejected.

18. Apart from the fact that the said document had been marked with the consent of the learned counsel for the election petitioner, no serious objection can be taken to their being marked as Exhibits as they are all official documents, specially Exts. B and C which are evidently public documents within the meaning of section 74(i), (ii) and (iii) of the Indian Evidence Act. Exts. B and C were prepared and issued by the Returning Officer under the statutory rules nos. 7 and 8, of the Conduct of Election Rules, 1961, in accordance with the mandate of the legislature given by sections 35 and 36(8) of the Act respectively. The Returning Officer is the creature of the Act and has been given the mandate to prepare such lists in accordance with the provisions of those sections and rules. That being so, any such list prepared by him would clearly come within the ambit of the expression "Acts or records of the acts of official bodies and public officers" used in section 74(i) (ii) and (iii) of the Indian Evidence Act. Those documents are also relevant under section 35 of the Indian Evidence Act, as they have been prepared in discharge of the official duty of the public servant, namely, the Returning Officer, in performance of duty specially enjoined by the law upon him. So, there can be no manner of doubt that

Exts. B and C are admissible in evidence as public documents under section 74 of the Indian Evidence Act.

19. Ext. B is the list of candidates, who had filed nominations for the said election within the time prescribed by the Notification and the name of Ramjee Mishra S/o Sheoji Mishra aforesaid appears at serial nos. 37, 38 39 and 40 of this list. So, it is apparent that this Ramjee Mishra had filed four nomination papers for election. Ext. C is the list of validly nominated candidates issued in Form IV, as prescribed by rule 8 read with section 36(8) of the Act. The name of this Ramjee Mishra is at serial no. 20 of this list. This list goes to prove conclusively that Ramjee Mishra, S/o Sheoji Mishra of village Itaraha, P.S. Karakat, District Rohtas, was a validly nominated candidate for the said election. The particulars of this Ramjee Mishra and the same as given by the election petitioner at page 9 of Annexure-1 of his petition dated 27-1-1986, which is at flag 38. Indeed, it is not the case of the election petitioner that Ramjee Mishra as mentioned in his Annexure is a person different from the person, who had filed his nomination papers and was a validly nominated candidate under Ext. C.

20. Thus, it is established beyond doubt that Ramjee Mishra against whom the allegation of corrupt practice of undue influence has been made in Schedule-1 of the election petition is the same Ramjee Mishra who was a validly nominated candidate for the said election. Hence, this Ramjee Mishra would be deemed to be a candidate within the expression "any other candidate" as mentioned in section 82(b) of the Act. That being so, it was obligatory for the election petitioner to join him as a respondent to the election petition in obedience to the mandate of section 82(b), as an allegation of corrupt practice has been made against him in the election petition as discussed above. It is an admitted position that he has not been joined as a respondent in this election petition.

21. It has been held by their Lordships of the Supreme Court in the case of Udhav Singh (supra) that :

".....A charge of corrupt practice against a candidate if established, entails serious penal consequences. It has the effect of debarring him from being a candidate at an election for a considerably long period. That is why Section 82(b) in clear, peremptory terms, obligates an election petitioner to join as respondent to his petition, a candidate against whom allegations of any corrupt practice are made in the petition. Disobedience of this mandate inexorably attracts Section 86 which commands the High Court, in equally imperative language, to—

"dismiss an election petition which does not comply with the provisions of Section 82"

22. In view of this clear mandate of the legislature and the exposition of law by the highest Court of the land, there is no option but to dismiss the present election petition under section 86 of the Act, as it does not comply with the requirements of Section 82(b), which is peremptory in terms. The election petition is, accordingly, dismissed under section 86(i) of the Act for not complying with the provision of section 82 of the Act. The election petitioner shall pay Rs. 200 (two hundred) as costs to respondent no. 1.

Sd/- R. N. PRASAD

Patna High Court,
The 16th June, 1986

नई दिल्ली, 8 मितम्बर, 1986

आवेष्ट

आ. अ. 195 :—निर्वाचन आयोग का समाधान हो गया है कि सीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट असम विधान सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्विना बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपर्युक्त रूप में अपने निर्वाचन व्यय का कोई भी लेखा वाखिल करने में असफल सरहा है;

श्रीर उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायीचित्य नहीं है,

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में सीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने शीर होने के लिए हम आवेष्ट की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्र. सं.	निर्वाचन का विवरण	निर्वाचन-क्षेत्र की क्र. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम	निरहता का कारण
1	2	3	4	5
121	असम विधानसभा का साधारण निर्वाचन, 1985	7—कटलियेरा	श्री मनी गोपाल डे, डाकघर मोनीपुरटी. ई., जिला कछार, असम	निर्वाचन व्ययों का कोई भी लेखा वाखिल करने में असफल।
122	वही	वही	श्री बुमबन लाल चोरी, गांव मागुरा पुर्जी, डाकघर लानगाई, जिला करीमगंज, असम	वही
123	वही	11—धौलाई (अ. जा.)	श्री मनोरंजन रविवाम, गांव मोहनखाल, डाकघर मोनीवारखाल कछार, असम	वही
124	वही	12 उधखकोण्ड	श्री हरीवास दाम, गांव और डाकघर गेंगपुर पार्स 4, सिलचर, असम	वही
125	वही	31—सिहली (अ. ज. जा.)	श्री पेटरम बास मातारी, गांव बालबी गांव नं. 2, जिला कोकाशाइ, असम	वही
126	वही	32—बांगईगांव	श्री अब बक्कर सिद्दिको, गांव धिलागुरी, डाकघर बासुगांव, जिला कोकाशाइ, असम	वही
127	वही	41—भबानीपुर	श्री कनक चन्द्र बोरो, गांव सलबारी, डाकघर सलबारी, जिला बारपेटा, असम	वही
128	वही	वही	श्री जिवेन्द्र बास मातारी, गांव हुडुखाटा, डाकघर सौवरभिटा, जिला बारपेटा, असम	वही
129	वही	वही	श्री पूर्णानन्द खरकटारी, गांव खुसरीतारी, डाकघर बारमाजसा, जिला बारपेटा, असम	वही

1	2	3	4	5
130.	असम विधान सभा का साधारण निर्वाचन, 1985	45—बाबनर	श्री आहुरूल इस्लाम, गांव पाथपरम, डाकघर धर्मपुर, बाया मोनडिया जिला बारपेटा, असम	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल।
131.	वही	वही	श्री मुकुल इस्लाम खान, गांव सखा कनारा, डाकघर सत्ताकितारा बाजार जिला बारपेटा, असम	वही
132.	वही	70—मजबत	श्री जिगारचरण ब्रह्मा, गांव बासी सिहा, डाकघर शेवता चारीयाली, जिला दारंग, असम	वही
133.	वही	वही	श्री फिलीमान बाम्की, गांव सिद्ध गांव डाकघर काजीयामाती, जिला दारंग, असम	वही
134.	वही	वही	श्री पवन पेजारिका, गांव मासुकुमारी डाकघर रोबला चारीअली, जिला दारंग, असम	वही
135.	वही	वही	सिराजल डाक, गांव सिधायौबा, डाकघर अमीनवाड़ा, जिला दारंग असम	लेखा समय के अन्दर और रीति से दाखिल करने में असफल
136.	वही	78—मोहपुर	श्री कनकेश्वर बरुआ, गांव काकीलागडो, डाकघर काकीला चारीयाली, जिला सोनीतपुर, असम	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल
137.	वही	वही	श्री दिलीप शर्मा, गांव धनुषधरा पामर, डाकघर मोहपुर, जिला सोनीतपुर, असम	वही
138.	वही	92—बोकाखाट	श्री जितेन्द्र नाथ बरुआ, बोकाखाट शहर, डाकघर बोकाखाट जिला जोरहाट, असम	लेखा समय के अन्दर और रीति से दाखिल करने में असफल।
139.	वही	96—बुन्तार्	श्री प्रमोद राजपूत, हाउतले टी. ई., डाकघर हाउतले, जिला जोरहाट, असम	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया।

1	2	3	4	5
140.	असम विधान सभा का साधारण निर्वाचन, 1985	99-मजुली (अ. ज. जा.)	श्री घाना कान्त कुली, गांव श्रीर डाकघर रतनपुर, मिरी, मजुली, असम	निर्वाचित व्यक्तियों का कोई भी लेखा दाखिल नहीं किया
141.	वही	113-धेमाजी (अ. ज. जा.)	श्री बुलाराम पांडुन बलुगामस मिरी, गांव डाकघर धेमाजी, जिला लखीमपुर, (असम)	वही
142.	वही	वही	श्रीमति बिमला बोरा, धेमाजी नगर स्लाक न. डाकघर धेमाजी, जिला लखीमपुर, असम	वही
143.	वही	वही	श्री सभानन्दा तांशुन मोरीगल, काथलगरी गांव, डाकघर मोरीगल, जिला लखीमपुर, असम	वही
144.	वही	116-दुलियाजान	श्री खाणेश्वर गोंगी, तामलीखाट गंगाव डाकघर तैनगाखाट, जिला डिब्रुगढ़, असम	वही
145.	वही	वही	श्री तरुण बोरदोलोई, न. 15 जालोनी रीक्यूजिसन ग्रंट, डाकघर जालोनी, जिला डिब्रुगढ़, असम	वही
146.	वही	वही	श्री नित्या दत्त मरुपावर बंगानी, डाकघर दुलियाजान, जिला डिब्रुगढ़, असम	वही
147.	वही	वही	श्री पानोराम साहकिया, पाना मुदु गांव डाकघर तैनगाखाट, जिला डिब्रुगढ़, असम	वही
148.	वही	वही	श्री लोकेश्वर गोंगी, देबखिल गांव डाकघर विछालिया, असम	वही

[सं. 78/असम/86]

New Delhi, the 8th September, 1986

ORDER

O.N. 195.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the Legislative Assembly of Assam as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice of the Election Commission, after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being, a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of election	No. & Name of constituency	Name of the contesting candidate	Reason for disqualification
1	2	3	4	5
121.	General Election to the Legislative assembly of Assam, 1985.	7-Katlicherra	Shri Nani Gopal Dey, P.O. Monipur T.E., Distt. Cachar, Assam.	Failed to lodge any account of his election expenses.
122.	-do-	-do-	Shri Bumvan Lal Chorei, Vill. Magura Panjee, P.O. Longai, Distt. Karimganj, Assam.	-do-
123.	-do-	11-Dholai (SC)	Shri Monoranjan Rabidas, Vill. Mohonkhal, P.O. Moniarkhal, Cochar, Assam.	-do-
124.	-do-	12-Udharbond	Shri Haridas Das, Vill. & P.O. Rongpur Pt. IV, Silchar, Assam.	-do-
125.	-do-	31-Sidli (ST)	Shri Petras Basumatary, Vill. Baldigaon No. 2, P.O. Nehru Bazar, Distt. Kokrajhar, Assam.	-do-
125.	-do-	32-Bongaigaon	Shri Abu Bakkar Siddique, Vill. Ghilaguri, P.O. Basugaron, Distt. Kokrajhar Assam.	-do-
127.	-do-	41-Bhabanipur	Shri Kanak Chandra Boro, Vill. Salbari, P.O. Salbari, Distt. Barpeta, Assam.	-do-
128.	-do-	-do	Shri Jitendra Basumatary, Vill. Hudukhata, P.O. Saudarbhittha, Distt. Barpeta, Assam.	-do-
129.	-do-	-do	Shri Purnananda Khorhatari, Vill. Khusratari, P.O. Barmajra, Distt. Barpeta, Assam.	-do-
130.	-do-	45-Bagbar	Shri Jahurul Islam, Vill. Patharpam, P.O. Dharampur, Via. Mondia, Distt. Barpeta, Assam.	-do-
131.	-do-	-do -	Shri Nurul Islam Khan, Vill. Satra Kanara, (9 No. Chit), P.O. Satra Kanara Bazar, Distt. Barpeta, Assam.	-do-
132.	-do-	70-Majbar	Shri Jigacharan Brahma, Vill. Balisiha, P.O. Rowta Chariali, Distt. Darrang, Assam.	-do-

1	2	3	4	5
133.	General Election to the Legislative Assembly of Assam, 1985.	79-Majbat	Shri Philimon Baskey, Vill. Sing Gaon, P.O. Kajlamati, Distt. Darrang, Assam.	Failed to lodge any account of his election expenses.
134.	-do-	-do-	Shri Paban Hazarika, Vill. Bhalukmari, P.O. Rowta Chariali, Distt. Darrang, Assam.	-do-
135.	-do-	-do-	Shri Sirajul Haque, Vill. Sidhakhowa, P.O. Aminpara, Distt. Darrang, Assam.	Failed to lodge the account within the time & in the manner.
136.	-do-	78-Gohpur	Shri Kanakeswar Baruah, Vill. Kakilaguri, P.O. Kakila Chariali, Distt. Sonitpur, Assam.	Failed to lodge any account of his election expenses.
137.	-do-	-do-	Shri Dilip Samah, Vill. Dhenudhara Pathar, P.O. Gohpur, Distt. Sonitpur, Assam.	-do-
138.	-do-	93-Bokakhat	Shri Jitendra Nath Barua, Bokakhat Town, P.O. Bokakhat, Distt. Jorhat, Assam.	Failed to lodge the account within time & in the manner.
139.	-do-	96-Khumtai	Shri Promod Rajpu., Hautley T.E., P.O. Hautley, Distt. Jorhat, Assam.	Failed to lodge any account of his election expenses.
140.	-do-	99-Majuli (ST)	Shri Ghana Kanta Kuli, Vill. & P.O. Ratanpur, Miri, Majuli, Assam.	-do-
141.	-do-	113-Dhemaji (ST)	Shri Dularam Padun, Batuumukh Miri Gaon, P.O. Dhemaji, Distt. Lakhimpur, Assam.	-do-
142.	-do-	-do-	Shrimati Bimala Bora, Dhemaji Nagar Block No. 1, P.O. Dhemaji, Distt. Lakhimpur, Assam.	-do-
143.	-do-	-do-	Shri Sabhananda Lalung, Moridhal, Kathalguri Gaon, P.O. Moridhal, Distt. Lakhimpur, Assam.	-do-
144.	-do-	118-Duliajan	Shri Khageswar Gogoi, Tamulikhata Gaon, P.O. Tengakhata, Distt. Dibrugarh, Assam.	-do-
145.	-do-	-do-	Shri Tarun Bordoloi, No. 15, Jaloni, Requisition Grant, P.O. Jaloni, Distt. Dibrugarh, Assam.	-do-

1	2	3	4	5
146.	General Election to the Legislative Assembly of Assam 1985.	118-Duliajan	Shri Nitya Dutta, Sarupather Bangali, P.O. Duli Jan, Distt. Dibrugarh, Assam.	Fail to lodge any account of his election expenses.
147.	-do-	-do-	Shri Panir m Salkia, Panimuchi Gaon, P.O. Tongakhata, Distt. Dibrugarh, Assam.	-do-
148.	-do-	-do-	Shri Lokeswar Gogoi, Deobill Gaon, P.O. Dighalia, Assam.	-do-

[No. 76/AS/86]

प्रादेश

आ. प्र. 196 : निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट उड़ीसा राज्य से विधान सभा के साधारण निर्वाचन, 1985 के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से प्रा. है, स्तम्भ (4) में उनके सामने विनिर्दिष्ट निर्वाचन लड़ने वाले प्रत्याग प्रत्याग, लोक प्रतिनिधित्व अधिनियम, 1951 तथा लखन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपवर्णित रूप में अपने निर्वाचन व्ययों का लेखा समय के अन्तर्गत, औप/अथवा अपेक्षित रीति से दाखिल करने में असफल रहा है ;

और उक्त प्रत्यागियों ने सम्यक्त सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण प्रस्तुत नहीं किया है या उनके द्वारा दिए गए प्रस्तावों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्याख्यान नहीं है ;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसूचन में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या तब राज/वि. राज्य क्षेत्र को विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए आदेश की तारीख से तीन वर्ष की अवधि के लिए अयोग्य घोषित करता है।

सारणी

क्रम निर्वाचन या विधान सभा	विधान सभा निर्वाचन क्षेत्र की क्रम संख्या और नाम	निर्वाचन लड़ने वाले प्रत्याग का नाम और पता	निर्णय का कारण
1	2	3	4
1. उड़ीसा राज्य से विधान सभा साधारण निर्वाचन, 1985	49-बालासोर (अ. जा.)	श्री विश्वनाथ मोदी, एट/पो. बालासोर, जिला पुरी, उड़ीसा।	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया।
2. -वही-	-वही-	श्री जनार्दन बेहरा, एट. भाकुराही, समीप : खारोरीपुर, पो. बामामालीपुर, जिला पुरी (उड़ीसा)	-वही-
3. -वही-	60-रेवतिया	श्री बोरुबन्धु खोतेई, पो. हाण्डा, बाया जनकीया, जिला पुरी (उड़ीसा)	निर्वाचन व्ययों का लेखा विधि द्वारा अपेक्षित रीति से दाखिल नहीं किया।
4. -वही-	61-रंगपुर	श्री विष्णु पटनयक, एट-संजोरडा, पो. केशपुर, जिला पुरी, (उड़ीसा)	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया।

1	2	3	4	5
5.	उड़ीसा राज्य से विधान सभा का साधारण निर्वाचन, 1985	62-नयागढ़	श्री अच्युतनन्दा मोहंती, एट. नार्कपुर, पो. इकरो, जिला पुरी, (उड़ीसा)	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया।
6.	-वही-	-वही-	श्री देबराज नायक, एट/पो. बाहालो, जिला पुरी, उड़ीसा।	निर्वाचन व्ययों का लेखा विधि द्वारा प्रेषित रति व समय में दाखिल नहीं किया।

ORDER

[सं. 76/उड़ीसा-वि. स./85]

O.N. 196.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the general election to the Legislative Assembly held in 1985 as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses or failed to lodge the account within the time and or in the manner, as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And whereas the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representations made by them, if any is satisfied that they have no good reason or justification for the said failure;

Now therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State/ Union Territory for a period of 3 years from the date of this order.

TABLE

S. No.	Particulars of election	S. No. & Name of the Assembly Constituency	Name & Address of the contesting candidate	Reason for disqualification
1	2	3	4	5
1.	General Election to Legislative Assembly, '85.	49-Balipatna (SC)	Shri Biswanath Bhoi, At/P.O. Baliana, Distt. Puri (Orissa)	Failed to lodge any account.
2.	-do-	-do-	Shri Janaranjan Behera, At. Bhakarahi Samll : Khariripur, P.O. Banamalipur, Distt. Puri (Orissa)	-do-
3.	-do-	60-Begunia	Shri Bauribandhu Khatei, P.O. Hija, Via-Jankia, Distt. Puri (Orissa)	Failed to lodge account in the manner required by law.
4.	-do-	61-Ranpur	Shri Bidhu Bhajan Pattnaik, At-Sanagorada, P.O. Kesarapur, Distt. Puri (Orissa)	Failed to lodge any account.
5.	-do-	62-Nayagarh	Shri Achyutananda Mohanty, At. Nachhipur, P.O. Ikiri, Distt. Puri (Orissa)	-do-
6.	-do-	-do-	Shri Debraj Naik, At/P.O. Chahali, Distt. Puri (Orissa)	Failed to lodge account within time and in the manner required by law.

[No. 76/OR-LA/85]

प्रावेण

प्रा. प्र. 197.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथाविनिर्दिष्ट परिवर्तन बंगाल राज्य से लोक सभा/साधारण निर्वाचन, 1984 के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा संशोधन बनाए गए नियमों द्वारा प्रेषित उक्त सारणी के स्तम्भ (5) में दया उपर्युक्त रूप में अपने निर्वाचन व्ययों का लेखा समय के अन्तर्गत और/अथवा प्रेषित रति से दाखिल करने में असफल रहा है;

और उक्त अभ्यर्थियों ने समय-सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण प्रस्तुत नहीं किया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्याख्यान नहीं है;

प्रतः प्रब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए आवेग की तारीख से तीन वर्ष की कालावधि के लिए निरहिता घोषित करता है।

सारणी

क्रम संख्या	निर्वाचन का विवरण	संसदीय निर्वाचन क्षेत्र को और नाम	क्रम संख्या	निर्वाचन लड़ने वाले व्यक्तियों का नाम और पता	निरहिता का कारण
1	2	3		4	5
1.	पश्चिम बंगाल राज्य से लोक सभा का साधारण निर्वाचन, 1985	35 बंकुरा		श्री तपन चक्रवर्ती, ग्राम व पो. खटरा, जिला बंकुरा, पश्चिम बंगाल।	निर्वाचन व्यर्थों का कोई भी लेखा दाखिल नहीं किया।
2.	वही	वही		श्री शैलेन मिश्रा, ग्राम पैराचाली, पो. पैराचाली, जिला पुरुलिया, पश्चिम बंगाल।	वही
3.	वही	36 बिशनपुर (भ. अ.)		श्री भागवत दुले ग्राम. पंचुर, पो. जामबानी, जिला बंकुरा, पश्चिम बंगाल।	वही

[सं. 76/प. ब.-सो. स./85]

एस. डी. प्रसाद, सचिव

O.N. 197.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the general election to the House of the People held in 1984 as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses or failed to lodge the account within the time and or in the manner, as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And whereas the said candidates have either not furnished any reason or explanation for the said failure even after due

notice or the Election Commission, after considering the representations made by them, if any is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of 3 years from the date of this order.

TABLE

S. Particulars of election No.	S. No. & Name of the Parliamentary Constituency	Name & Address of the contesting candidate	Reason for disqualification
1	2	3	4
1. General election to the House of the People, 1984.	35-Bankura	Shri Tapan Chakravarty, Vill. & P.O. Khatra, Distt. Bankura, West Bengal.	Failed to lodge any account.
2. -do-	-do-	Shri Shailen Mishra, Vill. Pairachali, P.O. Pairachali, Distt. Purulia, West Bengal.	-do-
3. -do-	36-Vishnupur (SC)	Shri Bhagbat Duley, Vill. Panchur, P.O. Jambani, Distt. Bankura, West Bengal.	-do-

[No. 76/WB-HP/85]

By Order

S. D. PERSHAD, Under Secy.

नई, दिल्ली 8 सितम्बर, 1986

आदेश

आ. प्र 198.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट दिल्ली संघ राज्य क्षेत्र से लोक सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुया है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वर्तन बनाए गए नियमों द्वारा अवेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपदर्शित रूप में अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहा है ;

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो; विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या म्यायोजित्व नहीं है ;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहिता घोषित करता है।

सारणी

क्रम सं	निर्वाचन का विवरण	संसदीय निर्वाचन-क्षेत्र की क्र. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम व पता	निरहिता के कारण
1	2	3	4	5
1.	लोक सभा का साधारण निर्वाचन 1984	नई दिल्ली	1. खन्ना विश्वनाथ 1991, बस्ती जुलाहान, दिल्ली-6	लेखा दाखिल नहीं किया
2.	तदैव	तदैव	2. श्री मेहर चन्द, 5/57 पंचकुइयां नई दिल्ली।	-तदैव-

[संख्या 76/दिल्ली-लो. स./85(7)]

New Delhi, the 8th September, 1986

O.N. 198.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column 4 of the Table below at the election to the House of the People from the Union Territory of Delhi as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses, as shown in column 5 of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And whereas the said candidates have either not furnished any reason or explanation for the said failure even after the due notice of the Election Commission, after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of 3 years from the date of this order.

TABLE

S. Particulars of elections No.	S. No. & Name of the Parliamentary Constituency	Name & Address of the contesting candidate	Reason for disqualification
1. General Election to the House of the People, 1984	1-New Delhi	1. Shri Khanna Vishwanath 1991, Basti Julahan, Delhi-6	Account not lodged
2. -do-	-do-	2. Shri Mehar Chand 5/57, Panchkuin New Delhi.	-do-

[No. 76/DL-HP/85(7)]

नई दिल्ली, 10 सितम्बर, 1986

New Delhi, the 10th September, 1986

आ. प्र. 199.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग 1985 की निर्वाचन प्रज्ञा संख्या 2/85, पंजाब एवं हरियाणा उच्च न्यायालय के तारीख 28-5-86 का निर्णय तथा आदेश विनांक 1-11-85 एतद्वारा प्रकाशित करता है।

[सं० 82/हरि. लो.स.-85]
बलबन्त सिंह, अधीक्षक

O.N. 199.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgment dated 28th May, 1986 alongwith Order dated November 1, 1985 of the High Court of Punjab and Haryana at Chandigarh, in Election Petition No. 2 of 1985.

[No. 82/HN-HP/2/85]
BALWANT SINGH, Under Secy.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CIVIL MISC. SIDE

Election Petition No. 2 of 1985

1. Uttam Singh, son of Sh. Gaj Singh, resident of village Meerpur, Tehsil Rewari, Distt. Mohindergarh.
2. Har Lal, son of Sh. Khushi Ram, resident of village Manesar, Tehsil and Distt. Gurgaon.
3. Data Ram, son of Sh. Bhoop Singh, resident of village Kharkhara, Tehsil Rewari, Distt. Mohindergarh.
4. Rao Jagmal Singh, son of Rao Ragbir Singh, resident of village Rajpura, Tehsil Pataudi, Distt. Gurgaon.
5. Attam Singh, son of Sh. Sish Ram, resident of village Rajpura, Tehsil Pataudi, Distt. Gurgaon.

... Petitioners

Versus

Rao Birender Singh, adopted son of Rao Balbir Singh, resident of village Rampura, Tehsil Rewari, Distt. Mohindergarh.

... Respondent

Election Petition Under Section 81 read with Section 100,
Praying :—

- (i) That the election of the respondent be declared void on the grounds of Commission of corrupt practices as mentioned in the petition;
- (ii) That the costs of the petition may be awarded in favour of the petitioners; and
- (iii) That any such order as the Hon'ble Court may deem fit and proper in the circumstances of the petition may be awarded.

Dated the 28th May, 1986

PRESENT :

THE HON'BLE MR. JUSTICE S. P. GOYAL

For the Petitioner :—Mr. S. C. Mohunta, Sr. Advocate with Mr. M. L. Saini, Mr. Azad Singh and Mr. A. S. Tewatia, Advocates.

For the Respondent :—Mr. H. L. Sibal, Sr. Advocate with Mr. Kuldip Singh Sr. Advocate, Mr. S. C. Sibal, Advocate Mr. M. S. Liberhan, Advocates and Mr. G. C. Gupta, Advocate.

Uttam Singh and others v. Rao Birender Singh

JUDGMENT

S. P. GOYAL, J.—The respondent, Rao Birender Singh, was declared elected to the Lok Sabha from Mohindergarh Parliamentary Constituency in the general election held in December, 1984. His election has been challenged by five voters of the constituency on the ground that he has committed corrupt practice of undue influence as defined in Section 123(2) of the Representation of People Act, 1951 (hereinafter called the Act) inasmuch as the returned candidate, his agents and other persons with his consent interfered with free exercise of the electoral right of the voters. The material facts constituting the said corrupt practice have been enumerated in paragraphs 7 and 8 of the petition.

The respondent, apart from controverting the material allegations made in the petition, raised several legal pleas as well.

On the pleadings of the parties, the following issues were framed :—

- “1. Whether the verification of the petition is not in accordance with law ? If so, its effect ? OPR.

2. Whether the allegations of corrupt practices are not supported by a valid affidavit ? If so, to what effect ? OPR.

3. Whether the amended petition is incomplete because the documents and annexures which were filed with the original petition have not been filed with the amended petition again ? If so, to what effect ? OPR.

4. Whether the allegations made in paras 7 and 8 of the petition do not amount to any allegations of corrupt practice ? If so, its effect ? OPR.

5. Whether the respondent committed the corrupt practices as alleged in paras 7 and 8 of the petition ? OPR.

The first four issues being purely legal were treated as preliminary issues and disposed of vide order dated November 1, 1985, which may be read as part of this judgment. Issue No. 5.

The material facts and particulars of the corrupt practice of undue influence, as contained in para 7 of the petition, in short, are that Ajit Singh, son of the respondent along with 25 musclemen including Bhoop Singh son of Daulat Ram, armed with guns, revolver, Lathis, Jalis and Faris came to the Polling Booth at 10.30 A.M. in a matador and two jeeps at Village Khijuri and enquired from Partap Singh, son of Daulat Ram resident of the said village as to how the polling was going on. On being informed that Harijan voters by and large were voting against the respondent, he became furious and ordered his men to capture the Polling Booth. The said persons then started firing indiscriminately in the air, entered inside the Polling Booth, turned out the voters including Suresh and Narsi, snatched the ballot papers from the polling staff, marked them in favour of the respondent and put them in the ballot-box. It was further alleged that one Tulsi Ram, son of Amin Lal, Harijan, resident of village Khijuri was obstructed and given blows by Bhoop Singh with jali and by Ajit Singh with Farsi and with Lathis by Ved Parkash and Mohinder Singh. Jit Ram, son of Kanhi Ram Ahir and Kiushan, son of Amin Lal, Harijan, who tried to rescue Tulsi Ram were also assaulted by them with lathis and other weapons. When confronted by Sarpanch Lal Singh and Hira Singh as to why they were belabouring Tulsi Ram, Ajit Singh rebuked them saying that he had come there with the consent and permission of Rao Birender Singh to capture the booth and not to allow Harijan voters to cast their votes who were traditional voters of Congress (J). In the meantime, the Superintendent of Police and Deputy Commissioner of Mohindergarh district with police force reached there. Ajit Singh and his musclemen were taken into custody and when they were being taken to the Police Station, Rao Birender Singh came from the opposite side and enquired as to why they were taking Ajit Singh along with them. One of the policemen replied that a serious incident at village Khijuri had taken place and Ajit Singh was deeply involved in it. Rao Birender Singh thereupon shouted that whatever Ajit Singh did, he did at his instance and got him released. In the concluding portion of the paragraph containing the said allegations, it is stated that Ajit Singh, son of the respondent committed the aforesaid corrupt practice at the instance and with the consent of the respondent.

The allegations of corrupt practice, subject-matter of this issue, consist of two incidents, one of booth capturing and the other of preventing Tulsi Ram (P.W.) from casting his vote according to his choice. The direct evidence on the incident of booth capturing consists of the statements of Hukam Chand (P.W. 12), Narsi (P.W. 13) and Satbir Singh (P.W. 14). Some circumstantial evidence in the regard is provided by Harchand (P.W. 6), who disappeared from the scene before Ajit Singh and his musclemen actually entered the school building where the polling booth was set up. It is this witness who has deposed that Ajit Singh carrying a pistol and a Farsi and 15 other persons armed with various weapons like guns, Jalis and Lathis came in two jeeps and a matador at 10.30 a.m. at the polling station. Out of 15 persons, he named only 1 person Bhoop Singh, who belongs to his village Khijuri. He further deposed that on

being informed by Partap Singh that the respondent was getting few votes and that Harijans were not voting for him, Ajit Singh fired 213 shots in the air and prompted the persons accompanying him to capture the booth. While they were proceeding towards the school building, the witness left the place and went to call Lal Singh, Sarpanch. Hukam Chand (P.W. 12), who claimed to be an agent of Ram Bilas Sharma, one of the candidates, deposed that he heard the noise of gun-fire shots outside the polling booth at about 10.30 a.m. and soon thereafter Ajit Singh carrying a pistol along with 810 other persons, one of whom was Bhooop Singh of his village, entered the polling booth and threatened the Presiding Officer to hand over the ballot papers to him so that he may mark and poll them in favour of the respondent. He also asked the polling agents not to intervene. Then he secured the ballot papers, marked them with the seal and put them in the ballot box. The witness further deposed that Suresh Kumar, who had already put his signatures to secure the ballot paper, and Narsi, who was standing behind him, were made to run away by Ajit Singh and his men. Narsi (P.W. 13) testified that at 10.30 a.m., he was standing in the queue behind Suresh when all of a sudden 314 gun shots were fired in the air. Ajit Singh armed with a revolver and Bhooop Singh armed with a pistol accompanied by 517 persons soon thereafter entered the polling booth and Ajit Singh pointed out his revolver and asked him and Suresh to run away. So they went without casting their votes. Satbir Singh (P.W. 14), the election agent of Congress (I) candidate, corroborated the Statement of Hukam Chand (P.W. 12).

Before analysing the evidence on merits, it would be proper to notice some salient features available on the record which go to show the partisan nature of the evidence produced. It is rather surprising that neither any defeated candidate nor any voter of village Khijuri has thought of filing the Election Petition and all the five petitioners belong to four different villages. As admitted by Uttam Singh (P.W. 5), the only petitioner who has appeared in the witness box, Col. Ram Singh who was then Minister of Local Bodies in the State of Haryana, fought the election against the sister of the respondent in the Assembly Election held in 1982. Uttam Singh was posted as his Personal Assistant when Col. Ram Singh was the Speaker of Haryana Vidhan Sabha. Lal Singh (P.W. 7), the Sarpanch of the Village, has admitted that Col. Ram Singh gave Rs. 5,000 for building a Harijan Chaupal. Tulsi Ram (P.W. 8) is a Panch in the same Panchayat and Krishan (P.W. 9) and Narsi (P.W. 13) are his brothers. Hukam Chand (P.W. 12) admitted that Satbir, Rang Avtar, Suresh and Vilay Kumar were employees of the Haryana Roadways when his statement was recorded and three of them, namely Suresh, Vilay Kumar and Satbir are witnesses for the petitioners. Satbir (P.W. 14) admitted that Col. Ram Singh was the Transport Minister when this petition was filed and he received the employment order in the Haryana Roadways on March 1, 1985, shortly before this petition was filed. These facts and circumstances go to show beyond doubt that all the witnesses produced by the petitioners belong to the group of Col. Ram Singh, a political rival of the respondent, and are, therefore, highly partisan witnesses.

Apart from the partisan nature of the evidence, the story put up is highly improbable and the conduct of the witnesses most unnatural. According to both Hukam Chand (P.W. 12) and Satbir Singh (P.W. 14) Ajit Singh snatched about 50/60 ballot papers, marked and polled them in favour of the respondent and the rest were left there. It has also been admitted by Hukam Chand (P.W. 12) that after Ajit Singh and his men left, the poll again started at 12.00 noon and 200/250 more votes were polled till the end of the day. It is hard to believe that if a man would capture the booth by show of force, he would remain content in marking 50/60 ballot papers only when the total number of votes polled were 595 at that booth. The motive as deposed to by the witnesses, that Harijan voters were not casting their votes in favour of the respondent also seems to be absolutely baseless. Certified copy of Form No. 20 (Exhibit P.W. 21) shows that total number of votes polled at the Khijuri Polling Booth was 595 out of which respondent got 508 votes whereas his closest rival Ram Bilas Sharma got only 44 votes. If only 50/60 votes were forcibly marked and polled in

favour of the respondent, as stated by the witnesses, the former got about 450 votes on his own. Again, when a voter comes to the polling booth, he is issued ballot paper after securing his signatures or thumb impression. If the ballot papers without having been issued to anyone are marked and polled, their validity can be easily challenged at the time of the counting. Even during trial no attempt was made by the petitioners to get the record produced to show that any ballot paper had been found in the ballot box or counted which was not issued to any voter. Had 50/60 ballot papers been marked and polled by Ajit Singh, as stated by the said witnesses, this fact could easily be established by summoning the record and examining the Presiding Officer. The non-production of such evidence also casts a strong doubt on the truthfulness of the said allegations. Further more, none of the said two polling agents made any complaint in writing to the Presiding Officer or to the Deputy Commissioner and the Superintendent of Police, who are stated to have reached the spot just about the time when the booth capturing is alleged to have taken place. There is no evidence that any objection was taken at the time of counting by any candidate that the booth had been captured and ballot papers had been marked and polled by Ajit Singh. It is not possible to believe that the other polling agents, the members of the polling staff and the Presiding Officer were conniving with the respondent and so did not make any complaint to the Deputy Commissioner and the Superintendent of Police, who had per chance reached at the spot. The whole story of capturing of the booth, therefore, seems to be nothing but a feat of imagination conjured for the purposes of this petition.

So far as the witnesses are concerned, Hukam Chand (P.W. 12) claimed that he was inside the polling station as an agent of Ram Bilas Sharma; one of the candidates. However, in the report prepared by the Presiding Officer, his name does not appear as one of the polling agents and, instead, Surjit Singh Sharma is shown as the polling agent of Ram Bilas Sharma, the B.J.P. candidate. Each of the polling agents is required to put his signatures also on the prescribed form. It is, therefore, not possible to accept the claim of this witness that he was polling agent of Ram Bilas Sharma. This reason alone would be sufficient to discard his evidence. Satbir Singh (P.W. 14), the other polling agent, admittedly was got employed in the Haryana Roadways by Col. Ram Singh, the then Transport Minister, Haryana, on March 1, 1985. He deposed that 30 voters who had come to cast their votes were told that their votes had already been polled. This obviously, a false statement because 50/60 ballot papers, which are alleged to have been snatched and polled by Ajit Singh, were not shown issued against the name of any voter. The question of anybody being told that his vote had already been polled, therefore, could not arise. Although he claims that he had narrated the incident in the evening to Rao Nihal Singh, the Congress (I) candidate, but no complaint having been made by the latter at any time till the declaration of the result, his claim in this regard also appears to be unfounded. He, therefore, seems to have been procured by providing him employment in the Haryana Roadways for the purposes of this petition and is a totally unreliable witness. Narsi (P.W. 13) is a brother of Tulsi Ram (P.W. 8) and appears to be member of the same group. His conduct otherwise also is highly unnatural. He stated that from the polling booth he ran to a far off place and returned home late in the evening after darkness. According to him, he never informed either his brothers Tulsi or Krishan or anybody else about this incident. All this highly unnatural conduct on his part would go to show that he is also a got up witness. Otherwise also, it is a thing of common knowledge that any number of partisan witnesses in election matters can be procured and made to make any statement.

Apart from the oral evidence, reliance was also placed by the learned counsel for the petitioners on the report (Exhibit P.W. 71) alleged to have been made by Lal Singh, Sarpanch, to the Sub Divisional Magistrate, Rewari, on the date of the polling at 11.30 a.m. The translation of this document reads as under :—

"Shri Ajit Singh, son of Rao Virender Singh, armed with lathi and a gun has reached Khijuri booth and started polling votes forcibly. The booth has been captured. It is 11.30 at this hour. Repoll may please be ordered."

The contents of this document instead of supporting the version of the petitioners cast a great shadow of doubt about its truthfulness. This report is made by Lal Singh. However, in the witness box he never deposed that any booth capturing took place in his presence. Harchand (P.W. 6), who claimed to be a witness to the capture of the booth, deposed that Ajit Singh and 15 other persons captured the booth. Ajit Singh had already been taken into custody by the police before Lal Singh, Sarpanch, and Harchand left the polling booth for Rewari. Not only this document contains no details, on the contrary what is stated therein is that Ajit Singh was forcibly casting the votes. It is, therefore, obvious that this report was only a figment of imagination and was made to create evidence for the purposes of this petition. Consequently, I have no hesitation in holding that the petitioners have miserably failed to substantiate the allegation that Ajit Singh with the help of 15/20 companions captured the booth and polled 50/60 votes after marking them in favour of the respondent.

The second incident constituting the corrupt practice is sought to be proved from the statements of Lal Singh P. W. 4/A, P.W. 4/B and P.W. 4/C and the First Information Report (P. W. 11). The documentary evidence on this matter consists of the three medico-legal reports (Exhibits P.W. 4/A, P.W. 4/B and P.W. 4/C) and the First Information Report (Exhibit P. W. 6/1). Tulsi Ram (P.W. 8) and Krishan (P.W. 9) are the two main witnesses who are stated to have been belaboured. The injuries on the person of Tulsi Ram consist of two bruises, one abrasion and one lacerated wound on the right parietal region of the skull, its dimensions being 5 cm. x 0.5 cm. bone deep. On the person of Krishan only one bruise was noticed. Thus, the injuries on the person of these two witnesses were of superficial nature except the one on the head of Tulsi Ram, which too was not of any serious nature.

The version contained in the First Information Report which was got recorded by Tulsi Ram (P.W. 8) is so much at variance with the evidence now led in the Court that it renders the whole affair of highly doubtful nature. In the First Information Report it has been stated that at about 11 a.m. when Tulsi Ram was sitting in the street in front of the house of Tira Singh Darzi, Pehlad son of Lal Chand of his village came there and asked him to vote for Rao Birender Singh failing which he told him that he would not allow him to enter his fields. When Tulsi Ram told Pehlad and Mohinder Singh son of Bhoop Singh armed with abusing the former. In the meantime, Ved Parkash son of Pehlad and Mohinder Singh son of Bhoop Singh armed with lathis reached there and started abusing the witness. Soon thereafter, Ajit Singh armed with farsi along with Bhoop Singh of village Khijuri armed with jall reached there and immediately Bhoop Singh gave a jall below on the palm of left hand and Ajit Singh a farsi blow from his reverse side on the head of the witness. Ved Parkash and Mohinder Singh are stated to have given lathi blows on the back and ninddi of his right leg. In his statement in the Court Tulsi Ram deposed that at about 10.30 a.m. he went to cast his vote to the polling booth. When he reached there he found two jeeps and a matador standing outside the polling booth and many persons carrying guns, lathis and farsis were remaining in the compound of the school building where the polling booth was set up. When he approached the building, Pehlad who was standing there asked him for whom he was going to cast his vote and on his disclosing that he was to cast his vote in favour of Congress (I), he tried to pressurise him to vote in favour of Congress (M). Ved Parkash, Mohinder Singh, Bhoop Singh and Ajit Singh are stated to have joined Pehlad outside the school building. The witness further deposed that Ajit Singh said that as this fellow would not concede to their wishes, he might be taught a lesson, and after saying that gave a blow with the reverse side of the farsi on his head. From the reading of the two versions, it is evident that not only the time and place of the occurrence has been changed but also an attempt has been made to show that the beating was given at the instance of Ajit Singh, who wanted the witness to vote according to his desires. Even if the version stated in the First Information Report is accepted wholly, no charge of corrupt practice could be made out against the respondent

as there were no allegation that either the respondent or his son Ajit Singh at his instance made any attempt to interfere in the exercise of franchise by the witness Tulsi Ram. All that is contained was that one Pehlad of village Khijuri, in order to pressurise the witness to cast his vote in favour of Congress (I) party, picked up the quarrel and thereafter the witness was belaboured by Ajit Singh, Bhoop Singh and two others.

Apart from the above most significant improvement made in the version put up in the Court, the First Information Report also does not contain any mention of the story about the reaching of the Deputy Commissioner and the Superintendent of police at the spot, the arrest of Ajit Singh and his party, the meeting of the respondent near the Sahavi Nadi and the taking of the injured by the police to the hospital. Instead, what is stated in the First Information Report is that on the raising of the alarm by Tulsi Ram, Lal Singh, Sarpanch and Hira Singh reached the spot and on seeing them the accused ran away. The medico-legal reports also do not show that the injured were taken to the hospital by the police. The First Information Report further recites that the injured were taken by Dalio Singh to the hospital, Rewari and not by the police. In the face of these large scale improvements made upon the version given in the First Information Report, it is difficult to believe the claim of the witnesses that any incident took place at all at the polling booth and they received injuries at the hands of Ajit Singh and his musclemen. If the incident had actually taken place, the petitioners could certainly examine the Deputy Commissioner, the Superintendent of Police, the Polling Officer or any other officer working at the polling station or the police officials who took the injured to the hospital at Rewari. The injuries on the person of the witnesses are also of such nature that they could be easily self-suffered. There are numerous other material discrepancies in the statements of the witnesses, but it is not necessary to notice them in detail because once the improvements made during the trial upon the version stated in the First Information Report are ignored, on the facts stated in the First Information Report, even if believed in entirety, no case of corrupt practice would be made out against the respondent as no allegation can be spelled out therefrom that Tulsi Ram was (P.21) asked to cast his vote in favour of the respondent by Ajit Singh and that he was belaboured because he refused to do so. The petitioners have, therefore, miserably failed to establish that there was any interference in the exercise of the right of franchise by Tulsi Ram and that he and his two companions were belaboured by Ajit Singh and his musclemen to desist him from exercising his vote according to his choice.

In view of the findings recorded above, Issue No. 5 is answered against the petitioners and this petition is dismissed with costs.

May 28, 1986.

S. P. GOYAL, Judge.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL MISC. SIDE

Election Petition No. 2 of 1985

1. Uttam Singh s/o Shri Gaj Singh, resident of village Meerpur, Tehsil Rewari, Distt. Mohindergarh.
2. Harlal s/o Shri Khushi Ram resident of village Manesar, Teh. and Distt. Gurgaon.
3. Data Ram s/o Shri Dhoop Singh, resident of village Kbarkara, Tehsil Rewari, Distt. Mohindergarh.
4. Rao Jagmal Singh s/o Rao Raghbir Singh, resident of village Rajpura, Tehsil Pataudi, Distt. Gurgaon.
5. Attar Singh s/o Shri Sish Ram, resident of village Rajpura, Teh. Pataudi, Distt. Gurgaon—Petitioners.

Versus

Rao Brinder Singh, adopted son of Rao Balbir Singh,
resident of village Rampura, Tehsil Rewari, Dis-
trict Mohindergarh. Respondent.

Election Petition under Section 81 read with Section
100 praying that :—

- (i) that the election of the respondent be declared void on the grounds of commission of corrupt practices as mentioned in the petition;
- (ii) that the costs of the petition may kindly be awarded in favour of the petitioners and
- (iii) that any such order as the Hon'ble Court may deem fit and proper in the circumstances of the petition may kindly be awarded.

Dated the 1st November 1986

PRESENT :

The Hon'ble Mr. Justice S. P. Goyal

For the Petitioner : Mr. S. C. Mohunta Sr. Advocate
with Mr. M. J. Saini, Mr. Azad
Singh and A. Mohunta, Advocates

For the Respondent : Mr. H. I. Sibal Sr. Advocate with
Mr. Kuldip Singh, Sr. Advocate.
Mr. M. S. Libaran, Advocate

JUDGEMENT

S. P. GOYAL, J. : The respondent, Rao Brinder Singh, was declared elected to the Lok Sabha from Mohindergarh Parliamentary Constituency in the election held in December 1984. His election has been challenged by five voters of the constituency on the ground that he has committed corrupt practice of undue influence as defined in section 123(2) of the Representation of People Act, 1951 (hereinafter called the Act) alleging that the returned candidate, his agents and other persons with his consent interfered with free exercise of the electoral right of the voters. The material facts constituting the said corrupt practice have been enumerated in paragraphs 7 and 8 of the petition.

The respondent apart from controverting the material allegations made in the petition raised several legal pleas giving rise to the following issues :—

1. Whether the verification of the petition is not in accordance with law ? If so, its effect ? OPR
2. Whether the allegations of corrupt practices are not supported by a valid affidavit ? If so, to what effect ? OPR
3. Whether the amended petition is incomplete because the documents and annexures which were filed with the original petition have been filed with the amended petition again, if so, to what effect ? OPR
4. Whether the allegations made in paras 7 and 8 of the petition do not amount to any allegations of corrupt practice; if so, its effect ? OPR

All these issues being purely issues of law were ordered to be heard and disposed of as preliminary issues.

ISSUE Nos. 1, 2 and 3

The only argument addressed on these issues was that the verification of the contents of paragraph No. 7 have been made on the information of Lal Singh who himself reached the spot at 11.00 A.M. and the contents of paragraph No. 8 have been verified on the basis of the complaints and documents without mentioning any particulars of such complaints and documents. I do not find that there is anything wrong

with the verification. Even though the act of capturing the booth commenced at 10.30 A.M. but the person who reached the spot at 11.00 A.M. when the act of booth capturing was still going on would be in a position to give all the information in this regard. The verification on the information of such person cannot be said to be defective in any manner. Similarly, the verification of the contents of paragraph 8 on the basis of a complaint and documents is in no way defective and the law does not require specification of the record on the basis of which verification is made. Objections to the validity of the affidavit again being similar to the one raised regarding the verification have to be overruled. Issue No. 3 was not pressed. All the three issues are, therefore, answered in the negative, that is, against the respondent.

ISSUE No. 4

The material facts and particulars of the corrupt practice of undue influence in short are that Ajit Singh son of the respondent along with 25 musclemen including Bhoop Singh son of Daulat Ram armed with guns, revolver, lathis, jalis and tatis came to the polling booth at 10.30 A.M. in a Matador and two jeeps at village Khijuri and enquired from Partap Singh son of Daulat Ram resident of the said village as to how the polling was going on. On being informed that Harijan voters by and large were voting against the respondent, he became furious and ordered to capture the Polling Booth. The said persons then started firing indiscriminately in the air, entered inside the Polling Booth, turned out the voters including Suresh and Narsi, snatched the ballot papers from the polling staff, marked them in favour of the respondent and put them in the ballot-box. It was further alleged that one Tusi Ram son of Amin Lal, Harijan, resident of village Khijuri was obstructed and given blows by Bhoop Singh with jali and by Ajit Singh by farsi and with lathis by Ved Parkash and Mohinder Singh. Jit Ram son of Kanhi Ram Ahir and Krishan son of Amin Lal, Harijan, who tried to rescue Tusi Ram were assaulted by them with lathis and other weapons. When confronted by Sarpanch Lal Singh and Hira Singh as to why they were belabouring Tusi Ram, Ajit Singh rebuked them saying that he had come there with the consent and permission of Rao Brinder Singh to capture the booth and not to allow Harijan voters to cast their votes who were traditional voters of Congress (I). In the meantime the Superintendent of Police and Deputy Commissioner of Mohindergarh district with police force reached there Ajit Singh and his musclemen were taken into custody and when they were being taken to the Police Station, Rao Brinder Singh came from the opposite side and enquired as to why they were taking Ajit Singh along with them. One of the policemen replied that a serious incident at village Khijuri had taken place and Ajit Singh was deeply involved in it. Rao Brinder Singh, thereupon shouted that whatever Ajit Singh did, he did at his instance and got him released. In the concluding portion of the paragraph containing the said allegations, it is stated that Ajit Singh son of the respondent committed the aforesaid corrupt practice at the instance and with the consent of the respondent.

In paragraph 8, a general averment has been made that several complaints were made to the Election Commission, Returning Officer and the Assistant Returning Officer that there was widespread apprehension that booth capturing was being planned by the respondent and his supporters on mass scale. In sub-para (a) it is averred that booths were captured at villages Bhatsana, Tekkli and Bhorakalan by the supporters of the respondent and his Polling Agents at his instance and a repoll ordered by the Election Commission. In sub-para (b) a mention has been made of 85 booths where more than 90 per cent votes had been cast in favour of the respondent. It was alleged that an inference therefrom can be drawn that these booths were captured by the supporters and agents of the respondent under his powerful influence and direction who happened to be the Union Minister at that time. Nine other booths have also been named which were alleged to have been captured by the supporters of the respondent. Sub-paragraph (d), (c) and (f) contain the allegation regarding the complaint made and have no bearing on this issue.

As regards the corrupt practice of undue influence pleaded in paragraph No. 7, it was contended that the material facts showing that booths capturing had taken place with the consent of the respondent have not been stated nor the names of the electors who were obstructed from exercising their right mentioned. In the absence of those facts, the allegations made did not amount to any corrupt practice and as such no triable issue arises therefrom. Under influence, as defined in section 123(2) of the Act means any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right. The two essential elements of undue influence, according to the provisions of the Act, thus would be (i) that there was direct or indirect interference or attempt to interfere with the free exercise of any electoral right and (ii) that the said interference or attempt to interfere was by a candidate or his agent or by any other person with the consent of the candidate or his election agent. Consequently, to make out the allegation of undue influence, it would be necessary to allege the facts constituting the above said two elements. As noticed above, the facts stated are that Ajit Singh alongwith many other persons who were fully armed came in a matador, entered inside the polling booth, turned out the voters including Suresh and Narsi, snatched the ballot papers from the polling stall, marked in favour of the respondent and put them in the ballot box. These facts fully constitute the first element of undue influence that there was direct interference in the free exercise of the electoral right. Although I am of the view that it would not be necessary to give names of the persons who were denied free exercise of their electoral right yet in the present case one person was named who was obstructed from exercising his right. What facts would be necessary to be pleaded to specify the first element of undue influence would depend on the allegations made. If the allegation is that some particular persons were obstructed from exercise of their electoral right, it may be necessary to mention their names as well. But in the present case the allegation is that the booth was captured and the ballot papers were snatched, marked and polled by the consent of the respondent. In these circumstances it would not be possible nor necessary for the petitioner to name the persons who were obstructed in the exercise of their electoral right.

As regards the consent of the respondent it has been averred that Ajit Singh had captured the booth with his consent and permission. Further, it has been pleaded that even the respondent stated to the Police Officers that whatever was done by Ajit Singh was at his instance. Thus the facts constituting the consent of the petitioner are the statements made by Ajit Singh and the respondent himself which had been duly pleaded. The plea of undue influence contained in paragraph 7, therefore, does not suffer from the vice of either lack of material facts or full particulars as envisaged in section 83 of the Act.

So far as the plea of undue influence contained in paragraph 8(a) is concerned it is stated that use of fire arms and other weapons was reported from villages Bhatsana, Leekli and Bhorakalan. It is further averred that in these three villages, ballot papers were snatched and torn, the ballot boxes and election material were removed and the voters threatened and beaten up by the supporters and polling agents of the respondent at his instance. As re-poll had been ordered by the Election Commission in these villages, the allegations are nothing but a thing of the past and do not amount to any plea of undue influence.

The allegations made in paragraph 8(b) are that in Mohindergarh constituency more than 90 per cent votes were polled in favour of the respondent at 83 polling booths specified therein. Further it is stated that in some of the polling booths even 100 per cent votes have been polled in favour of the respondent. From these facts, an inference was sought to be drawn that the said booths were totally captured under the powerful influence and direction of the respondent who happened to be the Union Minister at that time. It is, therefore, evident that there is no allegation in this sub-paragraph that the said booths were captured by the respondent or by anybody with his consent. Instead after detailing the number of votes secured by the respondent at various polling stations, it is stated that an inference can be drawn from the percentage of the polling that those booths were captured. The facts stated are of evidentiary nature and the further allegation is in the nature of a conclusion drawn from those facts. This sub-paragraph, therefore, in my view, does not contain material facts of the corrupt practice alleged and as such the plea of undue influence stated therein has to be ignored.

The plea of undue influence mentioned in sub-paragraph 8(c) again lacks material facts and has to be ignored. All that is stated in this sub-paragraph regarding the polling booths at various villages is that the same were captured by the supporters of the respondent. But it is not even mentioned that the supporters did so with the consent of the respondent. Sub-paragraphs 8(d) (e) and (f) contain allegations regarding the complaints made. These facts are only of evidentiary value and by itself constitute no plea of undue influence. The plea taken in sub-paragraph (e) also does not deserve trial because of the lack of material facts.

In view of the findings recorded above, issue No. 4 is partially decided in favour of the respondent, that is, his objections regarding the plea of undue influence contained in paragraph 7 are overruled, while the objections regarding the pleas raised in paragraph 8 are allowed and the same shall be deemed to have been struck off.

November 1, 1985.

Sd/- S. P. GOYAL, Judge

नोटिफिकेशन, ४ नवम्बर, 1986

प्रदेश

आ. प्र. 200.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की मांगों के स्तम्भ (2) में यथा विनिर्दिष्ट लोक/सभा/विधान सभा के निर्वाचन क्षेत्रों जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र में द्या है, स्तम्भ (4) में उनके मामले विनिर्दिष्ट निर्वाचन करने वाला प्रत्येक अभ्यर्थी, लोक विनिर्दिष्ट अधिनियम, 1951 तथा सही बनाने गए नियमों द्वारा अपेक्षित उक्त मांगों के स्तम्भ (5) में यथा उपदिष्ट रूप में अपने निर्वाचन स्थलों का पेशा रीति से/कोई भी लक्ष्य दाखिल करने में असफल रहा है;

और उनके अभ्यर्थियों ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण प्रस्तावित नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोगों का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्याख्यान नहीं है;

अतः अब निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की मांगों के स्तम्भ (1) में विनिर्दिष्ट व्यक्तियों को संसद के किसी सदन के या किसी राज्य की विधान सभा प्रथम विधान परिषद् के सदस्य चुने जाने और होने के लिए या प्रदेश की तारीख ने तीन वर्षों का कालावधि के लिए निर्वाचन योग्य नहीं है।

भारतीय

क्रम सं. / निर्वाचन का विवरण	निर्वाचन क्षेत्र की क्र. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम	निराहता का कारण
1. कर्नाटक विधान सभा का साधारण निर्वाचन—1985	184—बयादगी (अ. जा.)	सर्वश्री मल्लापा राजप्पा इनजानी, मैन रोड बयादगी, जिला धारवाड (कर्नाटक)	लेखा रीति में दाखिल नहीं किया गया
2. —वही—	186—श्रीरङ्गपुरी	सर्वश्री कोनबागेरु ब्रामचरराज, मल्लापा कोदाकोल, तालुक शंकरपुरी, जिला धारवाड, (कर्नाटक)	कोई भी लेखा दाखिल नहीं किया
3. —वही—	वही	नारिकोप्पा कृष्णरङ्ग बामचरङ्गुरी, मन्नेनाहल्ली तालुक श्रीरङ्गपुरी, जिला धारवाड (कर्नाटक)	वही
4. वही	187—मुडागुडी	गुजारी रामप्पा सत्यप्पा, स्थान हुत्तालागेरी, तालुक गांदम जिला धारवाड (कर्नाटक)	वही
5. वही	वही	लमानी लक्ष्मण थावरप्पा, स्थान काबून्नायकपुरी डाकघर यल्लिगिरु तालुक गांदम जिला धारवाड (कर्नाटक)	वही
6. वही	वही	श्रीदिमणि विश्व इनमप्पा, स्थान कालामापुर तालुक गांदम जिला धारवाड (कर्नाटक)	वही
7. वही	190—नारागुंड	लिंगप्पा येल्लाप्पा रामदुर्गा नारागुंड (बंदापुर) तालुक नरगुंड जिला धारवाड (कर्नाटक)	वही

[सं. 76/कर्ना. वि. स./85(530)—538]

आदेश में,
सी. एल. राज, सचिव,
भारत निर्वाचन आयोग

ORDER

O.N. 200.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the Election to the House of the People/Legislative Assembly specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses in the manner/has not lodged the account at all as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder.

the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure.

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares that persons specified in column (4) of the Table below to be disqualified for being chosen and for being, a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for period of 3 years from the date of this order.

TABLE

S. No.	Particulars of Election	S.No. and name of constituency	Name of Contesting Candidates	Reason for Disqualification
1	2	3	4	5
1.	General Election to the Karnataka Legislative Assembly, 1985	184-Byadgi (SC)	Sh. Mallappa Rajappa Hanjagi, Main Road Byadgi District, Dharwad, (Karnataka)	Account not lodged in the manner
2.	-do-	186-Shirhatti	Sh. Konchigeri Basavaraj Malakappa, Kadacol, Taluk Shirhatti District Dharwad, (Karnataka)	Account not lodged at all.
3.	-do-	-do-	Farikoppa Krishnaraddi Basavaraddi, Machenahalli, Taluk, Shirhatti District Dharwad (Karnataka)	-do-
4	-do-	187-Mundargi	Pujari Ramappa Satyappa, At Hatalageri, Taluk Gadag District Dharwad, (Karnataka)	-do-
5	-do-	-do-	Lamani Laxman Thavarappa, At: Kabulayatatti Post, Yalishirur Taluk Gadag, District Dharwad, (Karnataka).	-do-
6	-do-	-do-	Hadimani Vijaya Hanamappa, At: Kalasapur, Taluk Gadag, District Dharwad (Karnataka)	-do-
7	-do-	190-Nargund	Sh. Lingappa Yellappa Ramadurga, Nargund (Dandapur) Taluk Nargund District, Dharwad (Karnataka)	-do-

[No. 76/KT. I A/85 (530-538)]

By Order,
C.L. ROSE, Secy.
Election Commission of India